WHITE AND WILLIAMS, LLP
The Atrium
East 80 Route 4
Paramus, NJ 07652
Attorneys for Plaintiff The Institute of Culinary Education, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

THE INSTITUTE OF CULINARY EDUCATION, INC., *Plaintiff,* -vs.- THE ESTATE OF EDWARD VARITES, CATHERINE VARITES, IN HER INDIVIDUAL CAPACITY AND AS EXECUTRIX AND ADMINISTRATRIX OF THE ESTATE OF EDWARD VARITES, EDWARD VARITES, III, CHRISTOPHER VARITES, LUKE VARITES, a minor, LAURIE VARITES, and JOHN DOES 1-100, Defendants.	Civil Action No.: **VERIFIED COMPLAINT**

Plaintiff, The Institute of Culinary Education, Inc. (hereinafter "ICE"), by way of Verified Complaint against the Defendants alleges as follows:

JURISDICTION AND VENUE

1. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332, as the controversy is between citizens of different states and exceeds the sum of $75,000.00 exclusive of interest and costs.

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a).

PARTIES

3. The Institute of Culinary Education (ICE) is and was at all times a New York Corporation with its principal place of business located at 50 West 23rd Street, New York, New York. ICE is New York City's largest and most active center for culinary education. It offers

highly regarded career training programs in culinary arts, pastry and baking, and culinary management. It also runs the largest program of hands-on recreational cooking and baking classes and wine education in the country, in addition to hosting hundreds of corporate and private cooking parties a year.

4. At all pertinent times prior to April 10, 2006 while the events and omissions giving rise to Plaintiff's claim occurred, decedent, Edward Varites, Jr. ("Varites" or "decedent"), was a resident of the State of New Jersey and maintained a residential address of 5 Grenadier Drive, Mahwah, New Jersey.

5. Catherine Varites is named both in her capacity as Executrix and Administratrix of the Estate of Edward Varites and in her individual capacity as the wife of the decedent, and is a resident of the State of New Jersey having a residential address of 5 Grenadier Drive, Mahwah, New Jersey.

6. In accordance with the proceedings before the Bergen County Surrogate Court, Catherine Varites represented that Edward Varites, III, the son of the decedent, maintains a residential address of 5 Grenadier Drive, Mahwah, New Jersey.

7. In accordance with the proceedings before the Bergen County Surrogate Court, Catherine Varites represented that Christopher Varites, the son of the decedent, maintains a residential address of 5 Grenadier Drive, Mahwah, New Jersey.

8. In accordance with the proceedings before the Bergen County Surrogate Court, Catherine Varites represented that Luke Varites, the minor son of the decedent, maintains a residential address of 5 Grenadier Drive, Mahwah, New Jersey.

9. In accordance with the proceedings before the Bergen County Surrogate Court, Catherine Varites represented that Laurie Varites, the daughter of the decedent, maintains a residential address of 5 Grenadier Drive, Mahwah, New Jersey.

10. John Does 1-100 are fictitious persons and entities whose names and addresses are currently unknown to ICE. Catherine Varies individually, the decedent's family members and the John Doe Defendants are collectively referred to as "Beneficiaries," and are named herein at this time to the extent they have custody, control, possession, or title to property, proceeds of property, or assets of Varites that are the fruits of his crimes.

FACTS

11. Varites first started working for ICE on October 19, 1998 as ICE's Controller and then subsequently as Chief Financial Officer. He maintained that position through his termination on April 3, 2006.

12. Varites, in his position as Chief Financial Officer, had access to ICE's confidential financial information. He was authorized to write checks for legitimate business purposes on ICE's bank accounts, including its petty cash account.

13. ICE terminated Varites' employment on April 3, 2006. It was agreed, however, that Varites would continue to be present to assist ICE in its transition to a new Chief Financial Officer.

14. The successor Chief Financial Officer started with ICE on April 10, 2006. Later that morning, it was discovered that Varites had entered the school around 7:00 AM and committed suicide in a staff bathroom.

15. Varites left a suicide note apologizing for actions that he had kept from ICE over the years.

16. Due to the circumstances surrounding Varites' death, the nature and substance of Varites' admission in the suicide note, and certain inconsistencies between what he had told other members of management at ICE regarding the health of his family members and what ICE learned to be the actual facts, ICE launched an investigation into its finances.

17. ICE's investigation revealed that, over the course of his 8 year tenure with ICE, Varites, without authorization and solely for his own personal gain, wrote numerous checks on ICE's bank accounts, which he used to pay his personal expenses, including, but not limited to, car payments, telephone services, landscaping services and life insurance premiums.

18. True and complete copies of examples of unauthorized checks written by Varites and revealed by ICE's investigation to date are in **Exhibit 1** attached hereto and incorporated by reference.

19. ICE's investigation further revealed that, over the course of his 8 year tenure with ICE, Varites forged the signatures of various ICE officers on checks written on ICE's bank accounts, and deposited the checks into his own personal account. See **Exhibit 1**.

20. The results of ICE's investigation to date has further revealed that Varites wrote 1,438 checks in unauthorized petty cash checks during the period from 1999 through 2006 totaling in excess of $1,500,000.00. A detailed log setting forth the date, number, amount, and payee on each unauthorized check is attached hereto and incorporated by reference as **Exhibit 2**.

21. Letters testamentary were issued to Catherine Varites on April 24, 2006. Catherine Varites is the Executrix and Administratrix of the Estate of Edward Varites.

22. On April 24, 2006, Judgment was entered by the Bergen County Surrogate's Court admitting the March 27, 1985 Last Will and Testament of Edward Varites to Probate.

23. Catherine Varites is the sole beneficiary under Edward Varites' March 27, 1985 Last Will and Testament.

FIRST COUNT
(Fraud)

24. ICE repeats and realleges each and every allegation contained in paragraphs 1 through 23 as if fully set forth herein at length.

25. Varites' acts of writing unauthorized checks on ICE's bank accounts for his personal expenses, including, but not limited to, car payments, telephone services, landscaping services and life insurance premiums, without authorization and notice to ICE as set forth in paragraph 17 and 20 of this Complaint, constitute misrepresentations and/or omissions of material fact.

26. Varites' unauthorized acts of forging ICE officers' names on checks written on ICE's bank accounts and depositing said checks into his own account without authorization and notice to ICE as set forth in paragraphs 19 and 20 of this Complaint constitute misrepresentations and/or omissions of material fact.

27. Varites' unauthorized acts of writing at least 1,438 checks during the period 1998 through 2006 totaling in excess of $1,500,000.00 as set forth in paragraph 20 of this Complaint constitutes misrepresentations and/or omissions of material fact.

28. Varites' misrepresentations and/or omissions were made with the knowledge that they were material, the intent to mislead ICE into relying on said misrepresentations and/or omissions, and to deprive ICE of its assets.

29. ICE justifiably relied on Varites, as its Chief Financial Officer and fiduciary, to only use its bank accounts for authorized business expenses.

30. ICE justifiably relied on Varites' misrepresentations and/or omissions to its detriment.

31. ICE's resulting damage was proximately caused by its reliance on Varites' misrepresentations and/or omissions.

WHEREFORE, Plaintiff ICE demands judgment against the Estate of Edward Varites for the total amount of unauthorized payments together with interest, attorney's fees and costs of suit, and for such other and further relief as this Court deems just under the circumstances.

SECOND COUNT
(Conversion)

32. ICE repeats and realleges each and every allegation contained in paragraphs 1 through 31 as if fully set forth herein at length.

33. Varites, in writing checks on ICE's bank accounts for his personal expenses, including, but not limited to, car payments, telephone services, landscaping services and life insurance premiums, without authorization from ICE as set forth in paragraph 17 and 20 of this Complaint, improperly assumed dominion and control over ICE's funds for his own use and personal gain, and otherwise deprived ICE of its property.

34. Varites, in forging ICE officers' names on checks written on ICE's bank accounts and depositing said checks into his own account without authorization from ICE, as set forth in paragraphs 19 and 20 of this Complaint, improperly assumed and dominion and control over ICE's funds for his own use and personal gain, and otherwise deprived ICE of its property.

35. Varites, in writing at least 1,438 checks during the period from 1999 through 2006 totaling in excess of $1,500,000.00 as set forth in paragraph 20 of this Complaint, improperly assumed dominion and control over ICE's funds for his own use and personal gain and otherwise deprived ICE of its property.

36. ICE has sustained damage as a result of Varites' conversion of its property.

WHEREFORE, Plaintiff ICE demands judgment against the Estate of Edward Varites for the total amount of unauthorized payments together with interest, attorney's fees and costs of suit, and for such other and further relief as this Court deems just under the circumstances.

THIRD COUNT
(Breach of Fiduciary Duty)

37. ICE restates each and every allegation contained in paragraphs 1 through 36 as if fully set forth herein at length.

38. A fiduciary relationship existed between ICE and Varites, in his capacity as Chief Financial Officer.

39. In his capacity as ICE's Chief Financial Officer, Varites' obligations to ICE included the duty of loyalty and the duty to exercise reasonable skill and care.

40. Varites, by misappropriating and converting ICE's funds for his own use and personal gain, breached his fiduciary duty to ICE.

41. Varites' breach of the fiduciary duties owed to ICE proximately caused ICE's damage.

WHEREFORE, Plaintiff ICE demands judgment against the Estate of Edward Varites for the total amount of unauthorized payments together with interest, attorney's fees and costs of suit, and for such other and further relief as this Court deems just under the circumstances.

FOURTH COUNT
(Injunctive Relief against Defendant Catherine Varites, as Executrix/Administratrix of the Estate of Edward Varites)

42. ICE repeats and realleges each and every allegation contained in paragraphs 1 through 41 as if fully set forth herein at length.

43. Letters Testamentary were issued to Catherine Varites as Executrix and Administratrix of the Estate of Edward Varites on April 24, 2006.

44. ICE will suffer immediate and irreparable injury if the funds Varites misappropriated from ICE, any assets Varites purchased with those funds, or the proceeds of the funds or such assets are transferred, assigned or distributed by the Executrix/Administratrix of his estate and/or disposed of or dissipated by his heirs, assigns, beneficiaries, or by any other person to whom estate assets have been or will be transferred.

45. ICE has no adequate remedy at law to protect the property Varites misappropriated and converted from being distributed by Varites' Executrix/Administratrix or dissipated or disposed of by his heirs, assigns, beneficiaries or by any other person to whom estate assets have been or will be transferred.

46. Catherine Varites, as Executrix and Administratrix of the Estate of Edward Varites, should be enjoined from distributing, dissipating or otherwise disposing of any funds misappropriated and converted by Varites, or any assets purchased with funds misappropriated or converted by Varites, from ICE.

WHEREFORE, ICE demands judgment against Defendant Catherine Varites as Executrix and Administratrix of the Estate of Edward Varites enjoining the distribution, dissipation, or disposition of any funds misappropriated and/or converted by Varites or any assets purchased with funds misappropriated and/or converted by Varites from ICE.

FIFTH COUNT
(Constructive Trust As against John Does 1-100)

47. ICE restates each and every allegation contained in paragraphs 1 through 46 as if fully set forth herein at length.

48. JOHN DOES 1-100 are individuals or entities to whom assets of the estate have been transferred.

49. JOHN DOES 1-100 are individuals or entities who are named beneficiaries under one or more life insurance policies purchased by Edward Varites with funds that Varites illegally obtained from ICE.

50. JOHN DOES 1-100 are individuals or entities to whom Edward Varites transferred monies, real estate, personal property or securities, which Edward Varites had purchased with funds that Varites illegally obtained from ICE.

51. JOHN DOES 1-100 are individuals or entities for whom Edward Varites purchased commercial enterprises, real estate, personal property and/or securities with funds that Varites illegally obtained from ICE.

52. JOHN DOES 1-100 are individuals or entities to whom Edward Varites loaned money with funds that Varites illegally obtained from ICE, which have not been returned or otherwise paid back in full.

53. JOHN DOES 1-100 are individuals or entities with whom Edward Varites invested in commercial enterprises or securities with funds that Varites illegally obtained from ICE.

54. JOHN DOES 1-100 are individuals or entities for whom Edward Varites paid any debt or legal obligation with funds illegally obtained from ICE.

55. JOHN DOES 1-100 are individuals or entities to whom, and/or with whom Varites made any *inter vivos* transfer or transaction utilizing or involving funds that Varites illegally obtained from ICE.

56. Edward Varites' wrongful acts of misappropriating and converting ICE's property resulted in the transfer of said property.

57. A constructive trust should be impressed by the Court over the items of property identified herein, as those items of property were purchased with funds that Varites illegally obtained from ICE.

58. The failure to impress a constructive trust over the items of property identified herein will result in an unjust enrichment and/or fraud.

WHEREFORE, ICE seeks equitable relief from this Court pursuant to its equitable powers and authority to impress a constructive trust on the items of property identified herein to prevent an unjust enrichment and/or fraud, and for such other and further relief as this Court deems just under the circumstances.

SIXTH COUNT
(Injunctive Relief against Defendant Catherine Varites in her individual capacity and the Beneficiaries)

59. ICE repeats and realleges each and every allegation contained in paragraphs 1 through 58 as if fully set forth herein at length.

60. Catherine Varites is the sole beneficiary under the March 27, 1985 Last Will and Testament of Edward Varites.

61. Title to the assets of the estate vested in Catherine Varites upon Edward Varites' death by operation of N.J.S.A. § 3A:2A-2.

62. Upon information and belief, Varites possessed assets that passed outside his Will and Estate to Beneficiaries, as defined herein.

63. ICE will suffer immediate and irreparable injury if the funds Varites misappropriated from ICE, or any assets Varites purchased with those funds, are sold, transferred, dissipated or disposed of by Catherine Varites and the Beneficiaries.

64. ICE has no adequate remedy at law to protect the property Varites misappropriated and converted from being sold, transferred, dissipated or disposed of by Catherine Varites and the Beneficiaries.

65. Catherine Varites, in her individual capacity, should be enjoined from selling, transferring, distributing, dissipating or disposing of any property bequeathed or devised to her under Edward Varites' Last Will and Testament.

66. The Beneficiaries should be enjoined from distributing, dissipating or otherwise disposing of any funds misappropriated and converted by Varites, or any assets purchased with funds misappropriated or converted by Varites, and any and all assets that passed outside Varites' Will and Estate to Beneficiaries.

WHEREFORE, ICE demands judgment against Defendant Catherine Varites in her individual capacity enjoining the sale, transfer, distribution, dissipation, or disposition of any property bequeathed or devised to her under Edward Varites' Last Will and Testament and against the Beneficiaries enjoining them from distributing, dissipating or otherwise disposing of any funds misappropriated and converted by Varites, or any assets purchased with funds misappropriated or converted by Varites, and any and all assets that passed outside Varites' Will and Estate to Beneficiaries.

SEVENTH COUNT
(Constructive Trust As Against Catherine Varites in her individual capacity)

67. ICE repeats and realleges each and every allegation contained in paragraphs 1 through 66 as if fully set forth herein at length.

68. A constructive trust should be impressed by the Court over the property that was bequeathed and devised to Catherine Varites under Edward Varites' Last Will and Testament, as those items of property were purchased with funds that Varites illegally obtained from ICE.

69. The failure to impress a constructive trust over the property that was bequeathed and devised to Catherine Varites under Edward Varites' Last Will and Testament will result in an unjust enrichment and/or fraud.

WHEREFORE, ICE seeks equitable relief from this Court pursuant to its equitable powers and authority to impress a constructive trust on the property that was bequeathed and devised to Catherine Varites under Edward Varites' Last Will and Testament to prevent an unjust enrichment and/or fraud, and for such other and further relief as this Court deems just under the circumstances.

EIGHTH COUNT
(Declaratory Judgment)

70. ICE repeats and realleges each and every allegation contained in paragraphs 5 through 69 as if fully set forth herein at length.

71. Pursuant to 28 U.S.C. § 2201, this Court has jurisdiction to declare the rights and legal obligations of the parties.

72. ICE seeks a declaration from this Court that it is the beneficial owner of the life insurance policies Varites purchased with monies illegally obtained from ICE.

73. An actual controversy exists between the parties.

74. Upon information and belief, Varites purchased insurance from various insurance companies, including, but not limited to, Guardian Life Insurance Company, Valley Forge Life Insurance Company and Provident Life and Casualty Company, with monies illegally obtained from ICE.

75. Varties wrote numerous checks from ICE's bank account directly to the insurance companies in payment of premiums for the policies, including the following:

Date	Check No.	Insurer	Amount

DOCS_NYC 5343v.1

03/22/04	Check # 41745	Guardian Life Ins. Co.	$6,831.99
12/14/04	Check #46170	Valley Forge Life Ins. Co.	$1,372.40
09/23/05	Check #50172	Guardian Life Ins. Co.	$6,831.99
12/23/05	Check #51237	Valley Forge Life Ins. Co.	$1,372.40
02/07/06	Check #51788	Provident Life and Cas. Co.	$1,289.00

76. As Varites purchased the subject life insurance policies with funds illegally obtained from ICE and written on ICE corporate checks, ICE is the beneficial owner of those policies.

77. ICE is entitled to the proceeds of any and all life insurance policies Varites purchased with funds illegally obtained from ICE, irrespective of the beneficiaries Varites named therein.

WHEREFORE, ICE seeks judgment pursuant to 28 U.S.C. § 2201 against Defendant The Estate of Edward Varites, Catherine Varites in her individual capacity and John Does 1-100, who are named beneficiaries under certain policies of life insurance purchased by Edward Varites, declaring that ICE is the beneficial owner of any and all life insurance policies Varites' purchased with funds illegally obtained from ICE, and for such other and further relief as this Court deems just under the circumstances.

JURY DEMAND

ICE hereby demands a trial by jury on all issues.

Dated: May 26, 2006

WHITE AND WILLIAMS LLP
Attorneys for Plaintiff, The Institute of Culinary Education, Inc.

BY: ______________________
ROBERT WRIGHT, ESQ.
ANTHONY J. LAPORTA. ESQ.

VERIFICATION

I verify under penalty of perjury that the forgoing statements are true and correct.

Executed on May 26, 2006.

Stephen Tave
Vice President